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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,605	11/21/2003	Henricus A. Marquering	0142-0437P	8206
2292 7590 11/16/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER BLOOM, NATHAN J	
			ART UNIT 2624	PAPER NUMBER
			NOTIFICATION DATE 11/16/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/717,605	MARQUERING ET AL.	
	Examiner	Art Unit	
	Nathan Bloom	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-24 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicants' response to the last Office Action, filed on August 7th, 2007 has been entered and made of record.

This action is Non-Final due to the introduction of a new 35 USC 101 rejection based on the existence of claimed non-statutory subject matter in the specification and claim language.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-17 and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim Claims 12-17 and 24 are drawn to functional descriptive material recorded on a computer readable medium. Normally, the claim would be statutory. However, the specification, at paragraph eleven (referencing to US PGPub 2004/0141643) defines the claimed computer readable medium as encompassing statutory media such as a "ROM", "RAM", "optical drive", "magnetic disk", etc as well as *non-statutory* subject matter such as "a signal propagating across the internet, extranet,".

"A transitory, propagating signal... is not a "process, machine, manufacture, or composition of matter." Those four categories define the explicit scope and react of subject matter patentable under 35 U.S.C. § 101. Thus, such a signal cannot be patentable subject matter." (*In re Petrus A.C.M. Nuijten*: Fed Cir, 2006-1371, 09/20/2007).

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory. The examiner suggests amending

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the claim to include the disclosed tangible computer readable media, while at the same time excluding the intangible media such as signals, carrier waves, etc. Any amendment to the claim should be commensurate with its corresponding disclosure.

Furthermore, the claim language will not be considered statutory unless it is written such that the “computer-readable medium” language occurs prior to the “program” or “executable code” as this clarifies that the storage device is the primary subject of the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Antonacopoulos (Anton) (“Flexible Page Segmentation Using the Background”).

The 35 USC 102(b) rejections of claims 1-7 by Anton are maintained. See previous office action for details regarding these rejections.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 9, 12-15, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonacopoulos.

The 35 USC 103(a) rejections of claims 9, 12-15, and 18-22 by Anton are maintained. See previous office action for details regarding these rejections.

5. Claims 8, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonacopoulos in further view of Ittner (EP 0621553 A2).

The 35 USC 103(a) rejections of claims 8, 12, and 16 by Anton in view of Ittner are maintained. See previous office action for details regarding these rejections.

6. Claims 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anton in further view of Stolin (US 6175844).

The 35 USC 103(a) rejections of claims 17 and 23 by Anton in view of Stolin are maintained. See previous office action for details regarding these rejections.

Response to Arguments

1. Applicant's arguments filed August 7th, 2007 have been fully considered but they are not persuasive.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., specifics on the manner in which the graph and its edges and vertices are defined and constructed) are not

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recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. Applicants' argument that:

"In addition or in the alternative, Anton fails to anticipate or render obvious at least "constructing a graph having vertices and edges connecting the vertices, on the basis of background areas in the image, said graph edges corresponding to field separators that together delineate the field of the image" as recited in claim 1. Other independent claims 12 and 18 recited similar features in a varying scope. For instance according to Applicants' embodied invention, the graph edges correspond to field separators and actually are lying inside the field separators.

Furthermore, none of the secondary references correct these deficiencies of Anton since they have been relied upon to reject the dependent claims."

As per the Examiner's response above the limitations must be clearly stated within the claims, as the limitations from the specification are not included. Also, the limitations of claim 1 that were separated are clearly identified by Anton in the prior art rejections as stated in the previous office action. Please see the graph in Figures 5 and 6 on page 342 wherein the graph is depicted. As can be seen in these figures the graphs are made up of edges (an edge is a boundary of an object) that are connected by edges (see corners of the objects wherein the boundaries or "edges" meet). Furthermore, as can be seen when comparing figures 3 and 5 the graphs correspond to the background areas and in Figure 8 it can be seen that when the further processing is complete the field separators are constructed from the graphs.

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Allowable Subject Matter

7. Claim 10-11 and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The cited prior art does not sort the enclosed areas by size or the removal of an inner enclosed area from another enclosed area.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Bloom whose telephone number is 571-272-9321. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed, can be reached on 571-272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

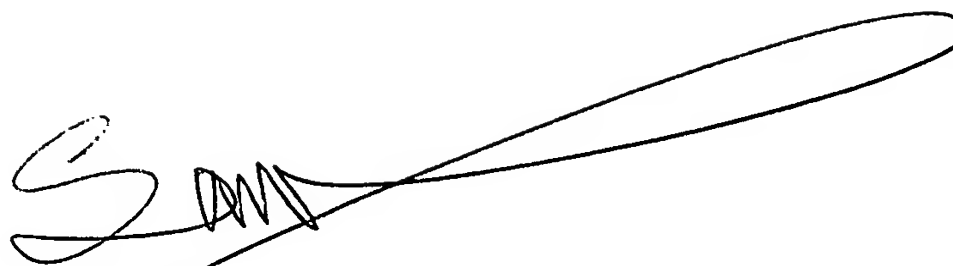
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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NB

A handwritten signature in black ink, appearing to read 'SAMIR AHMED', with a long, sweeping horizontal stroke extending to the right.

SAMIR AHMED
SUPERVISORY PATENT EXAMINER